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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/603,834	06/26/2003	Kunihiro Nagasawa	03-7 FJA	4079
21254	7590	02/13/2006	EXAMINER	
MCGINN INTELLECTUAL PROPERTY LAW GROUP, PLLC			HANSEN, COLBY M	
8321 OLD COURTHOUSE ROAD				
SUITE 200			ART UNIT	PAPER NUMBER
VIENNA, VA 22182-3817			3682	

DATE MAILED: 02/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/603,834	NAGASAWA, KUNIHIRO
	Examiner	Art Unit
	Colby Hansen	3682

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 25 November 2005.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1 and 2 is/are rejected.
- 7) Claim(s) 3 and 4 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-2 are rejected under 35 U.S.C. 102(b) as being anticipated by Lee (US Pat. 6,196,080).

Lee (US Pat. 6,196,080) discloses a select system for an automatic transmission having a select lever 2 switching over between a mechanical automatic mode and an electrical manual mode, comprising a single engaging protrusion 5 provided to said select lever and extended for a predetermined distance to one side; and a rotatable linkage member 3 having an engaging groove for inserting said engaging protrusion therein, wherein when said select lever is in the automatic mode, said linkage member 3 is rotatable with a shifting movement of said select lever 2 by an engagement between said engaging protrusion 5 and a part of said engaging groove 15 so as to achieve mechanical transmission control of said automatic transmission, and when said select lever 2 is in the manual mode, said engaging protrusion 5 restricts an accidental rotation of the linkage member so as to avoid the mechanical transmission control of the automatic transmission, while said engaging protrusion 5 disengages from the part of said engaging groove (fig. 2); a hollow square upper groove 15 having an open bottom; and a hollow rectangular lower groove 16 continuous with the upper groove; wherein said engaging protrusion 5 fits in said upper groove 15 when said sect lever is in the automatic mode.

*Allowable Subject Matter*

Claims 3 and 4 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

*Response to Arguments*

Applicant's arguments, filed 11/25/2005, with respect to the 35 USC 112, 2<sup>nd</sup> paragraph rejection of claims 2-4 as well as the 35 USC 102 (b) rejection of claims 3-4 have been fully considered and are persuasive. The aforementioned rejections of said claims have been withdrawn.

Applicant's arguments filed 11/25/2005 have been fully considered but they are not persuasive (with regard to the 35 USC 102(b) rejection of claims 1-2).

Applicant argues that the mechanism of Lee requires another wholly separate mechanism for restricting the rotation of the cable guide, and that the lever 5 and lever hole of Lee do not work for restricting the rotation of the cable bracket in the annual mode since the lever is not inserted into the automatic mode section when in the manual mode section. While Examiner does concede that a separate restricting mechanism is included in Lee (i.e. push lever, flat spring, and lever hole), because the protrusion of Lee is always located within the grooves 15, 16 it has the capability of restricting the movement of the cable bracket (for instance if there was a catastrophic failure of the separate restriction mechanism). A recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and

the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

#### ***FACSIMILE TRANSMISSION***

Submission of your response by facsimile transmission is encouraged. Group 3600's facsimile number is **(571) 273-8300**. Recognizing the fact that reducing cycle time in the processing and examination of patent applications will effectively increase a patent's term, it is to your benefit to submit responses by facsimile transmission whenever permissible. Such submission will place the response directly in our examining group's hands and will eliminate Post Office processing and delivery time as well as the PTO's mail room processing and delivery time. For a complete list of correspondence not permitted by facsimile transmission, see MEP. 502.01. In general, most responses and/or amendments not requiring a fee, as well as those requiring a fee but charging such fee to a deposit account, can be submitted by facsimile transmission. Responses requiring a fee which applicant is paying by check should not be submitting by facsimile transmission separately from the check.

Responses submitted by facsimile transmission should include a Certificate of Transmission (MEP. 512). The following is an example of the format the certification might take:

I hereby certify that this correspondence is being facsimile transmitted to the Patent and Trademark Office (Fax No. (703) 872-9306) on \_\_\_\_\_

(Date)

Art Unit: 3682

Typed or printed name of person signing this certificate:

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(Signature)

If your response is submitted by facsimile transmission, you are hereby reminded that the original should be retained as evidence of authenticity (37 CFR 1.4 and MPEP 502.02). Please do not separately mail the original or another copy unless required by the Patent and Trademark Office. Submission of the original response or a follow-up copy of the response after your response has been transmitted by facsimile will only cause further unnecessary delays in the processing of your application; duplicate responses where fees are charged to a deposit account may result in those fees being charged twice.

*Conclusion*

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

Art Unit: 3682

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Colby Hansen whose telephone number is (571) 272-7105. The examiner can normally be reached on Monday through Thursday and every other Friday from 7:30 PM to 5:00 PM (EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Ridley, can be reached on (571) 272-6917. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-2168.

Colby M. Hansen

  
2/6/06  
Patent Examiner

  
RICHARD W. RIDLEY  
~~PRIMARY EXAMINER~~

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